



Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008

What We Will Cover Today

- Overview of ADA and Amendments of 2008
- Qualified Individuals with Disabilities
- Programs, Services, and Activities
- Requests for Accommodation
- Overview of Accommodations
- Creating an Accessible Court

Americans with Disabilities Act of 1990

Congress passed the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."

2008 ADA Amendments Act

- Rejected the U.S. Supreme Court's interpretations of the definitions of "disability" and related terms
- Congress explicitly directed that:

"The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act"

Who is Protected by the ADA

- The ADA protects the rights of people who have a physical or mental impairment that substantially limits their ability to perform one or more major life activities, such as breathing, walking, reading, thinking, seeing, hearing, or working.

How Does the ADA Affect Courts?

While the ADA has five separate titles, Title II is the section specifically applicable to “public entities” (state and local governments) and the programs, services, and activities they deliver.

The Cornerstone of Title II of the ADA

No qualified person with a disability may be excluded from participating in, or denied the benefits of, the programs, services, and activities provided by state and local governments because of a disability.

What Constitutes a ‘Qualified Person?’

- They meet the essential eligibility requirements of the program.
- What if the individual with a disability does not meet the essential eligibility requirements?

Determining Whether an Individual has a Disability

1. Does the individual have an impairment?
2. Does the impairment limit any major life activities?
3. Is the limitation on any major life activity substantial?



Title II Covers a Broad Range of
Court Related Activities that are
Programs, Services, and Activities

These Include:

- Participation in trials and hearings, both as a litigant and an observer
- Access to publications, libraries, Internet sites
- ADR Programs
- Training offered by the court
- Physical accessibility of courtrooms and court houses
- Juror selection process



All of These Activities are Governed by
a Multiplicity of Rules, Policies, and
Procedures. Under the ADA ...

Public entities must reasonably modify
their rules, policies, and procedures to
avoid discriminating against people
with disabilities


Reasonable Modifications

What is a reasonable modification?

- Common sense approach
- Nothing in (the law) shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit which such individual chooses not to accept (**28 C.F.R. § 35.130**)
- “Make it work”

Example

- Requiring a driver's license as proof of identity is a policy that would be discriminatory since there are individuals whose disability makes it impossible for them to obtain a driver's license.
- In that case it would be a reasonable modification to accept another type of government-issued I.D. card as proof of identification.



Are There Times When a Modification to Rules, Policies and Procedures Would Not Be Required?

Yes, when providing the modification would fundamentally alter the nature of the program, service, or activity.

The Request for Accommodation

- Persons with disabilities may only need the court to make an accommodation that will enable them to participate fully in the program, service, or activity.
- Written (MC 70)
- Oral – in person or on the phone



Types of Accommodations



Removing Physical Barriers

People with disabilities cannot participate in court-sponsored programs, services, or activities if they cannot physically access the program or service.



Removing Communication Barriers

People with disabilities cannot participate in court-sponsored programs, services, or activities if, because of the disability, they cannot understand what is being communicated.

Providing Auxiliary Aids and Services

For Individuals Who are Deaf or Hard of Hearing

- Qualified sign-language interpreters,
- Note takers
- Computer-aided transcription services,
- Written materials,
- Telephone headset amplifiers,
- Assistive listening systems,
- Telephones compatible with hearing aids
- Open and closed captioning
- Videotext displays
- TTYs (tele typewriter)

Providing Auxiliary Aids and Services

For Individuals Who are Blind
or have Low Vision

- Qualified readers
- Taped texts
- Braille materials
- Large print materials
- Materials in electronic format on compact discs or in emails
- Audio recordings.

Providing Auxiliary Aids and Services

For Individuals Who have
Speech Impairments

- TTYs,
- Computer stations,
- Speech synthesizers
- Communications boards

Service Animals

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.
- Miniature horses

The Cost of Doing Business

The expense of making a program, service, or activity accessible or providing a reasonable modification or auxiliary aid may not be charged to a person with a disability requesting the accommodation.

Services the Court Is Not Required to Provide

- Transportation to and from the courthouse
- Legal counsel or advice
- Personal devices such as wheelchairs
- Personal services such as medical or attendant care



Creating an Accessible Court

Your Court's Facility and Equipment

- Do an assessment of your court facility. The Self Evaluation checklist on the SCAO website can be used as a starting point.
- Assess the court's equipment needs to ensure effective communication for persons with hearing, speech, vision, or cognitive disabilities.



Your Court's Facility and Equipment

- Involve your funding unit in these assessments.
- Involve people with disabilities and disability-related organizations in proactively identifying potential and existing access barriers and equipment needs.

ADA Coordinator

- If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance
- In Michigan, every court must have an ADA Coordinator regardless of the number of employees.

Identify and Train an ADA Coordinator

- ADA Coordinator roles:
 - Serves as single point of contact
 - Disseminates information to public and within court
 - Promotes effective communication about accessibility and requests for accommodation
 - Support

Benefits of an ADA Coordinator,

- Public can easily identify contact person.
- Specific, knowledgeable, contact person who can efficiently provide consistent answers.
- Coordinators can be instrumental in ensuring that compliance plans move forward.

Establish Local Protocol

Local Protocol Enables the Court to:

- Utilize resource information for addressing common accommodation requests;
- Demonstrate to individuals with disabilities that their requests are being considered; and
- Methodically evaluate accommodation requests, without creating unnecessary administrative demands on busy court personnel that often result from unexpected requests.

Final Steps

- Educate all court personnel on the court's accessibility features and its accommodation protocol.
- Notify the public regarding the court's accommodation process.
- Implement a grievance procedure.

Conclusion

- Questions and Comments.